IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMARY SUIT NO.3102 OF 2006

Eastern Cargo Carriers (I) Pvt. Ltd. ...Plaintiff.
Vs.
Simon Brothers Pvt. Ltd. & Ors. ...Defendants.

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Mr.C. J. Bijlani for the Plaintiff.
None for the Defendants.

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CORAM : DR.D.Y.CHANDRACHUD, J.
9th April 2007.

P.C.:

The suit under Order 37 of the Code of Civil Procedure, 1908 has been filed in order to recover an amount of Rs.1,45,244.45 inclusive of interest.

The Plaintiff is an IATA agent carrying on business of Air Cargo bookings. The First Defendant is a sub-agent of the Plaintiff. The Plaintiff issued invoices/bills of transportation charges and other expenses in the name of the First Defendant. From time to time the Defendants made partial payments, the last that is realised being on 31st January 2004 in the amount of Rs.13,135/-. Thereafter, a cheque dated 23rd August 2004 in the amount of Rs.20,000/- forwarded by the Defendants was dishonoured on

presentation. By a letter dated 13th January 2006, the Plaintiff submitted a statement of the amount due as on 31st December 2005, of Rs.98,374.45 to the Defendants. The Defendants were called upon to disclose any discrepancy within three days failing which it was stated that the amount shall stand confirmed. The Plaintiff's letter dated 13th January 2006 was served on the First Defendant to which there was no reply. Thereafter, a further Advocate's notice dated 31st August 2006 was sent to the Defendants Under Certificate of Posting.

Defendant Nos.1, 2 and 3 have not entered appearance despite service of the Writ of Summons. An affidavit of service has been filed. A compilation of the original documents on the basis of which the suit has been instituted has also been tendered on the record. The claim of the Plaintiff is duly established. Even otherwise, the Defendants having failed to enter appearance, the Plaintiff would be entitled to a decree as prayed under the provision of Order 37. The suit shall accordingly be decreed in terms of prayer clauses (a) and (c) against Defendant Nos.1, 2 and 3, save and except with the modification that the Plaintiff shall be entitled to interest at the rate of 9% per annum from the date of the

institution of the suit until the date of the decree and at the same rate from the date of the decree until payment or realization.

Refund of Court fee, if any, as per rules.

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